

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

05-02 P 13:04

LAURA ALLEN, INDIVIDUALLY AND AS )  
ADMINISTRATRIX OF THE ESTATE OF )  
DAN ALLEN, AND AS NEXT FRIEND OF )  
TAYLOR ALLEN AND DANIELLE ALLEN, )  
and MARK ALLEN, )  
Plaintiffs )

v. )

CIVIL ACTION  
NO. 05-40048-FDS

MARTIN SURFACING, INC.; MARTIN )  
SURFACING, A DIVISION OF SOUTHWEST )  
RECREATION; RONALD RYBA; )  
SOUTHWEST RECREATIONAL )  
INDUSTRIES, INC., d/b/a MARTIN )  
SURFACING; REED J. SEATON; ROBERT N. )  
WOLESENSKY, JR.; DYNAMIC SPORTS )  
CONSTRUCTION, INC. AND DOES, )  
Defendants )

**OBJECTION OF DEFENDANT, REED J. SEATON,  
TO PLAINTIFF'S REQUESTS FOR ENTRY OF DEFAULTS AGAINST  
DEFENDANTS, MARTIN SURFACING, INC. AND MARTIN SURFACING,  
A DIVISION OF SOUTHWEST RECREATION [sic]**

NOW comes the Defendant, Reed J. Seaton, and files the within Objection, as follows:

1. Plaintiff has filed two (2) requests for default pertaining to the co-defendants, Martin Surfacing, Inc. and Martin Surfacing, a Division of Southwest Recreation [sic].
2. Presently, Southwest Recreational Industries, Inc. is in bankruptcy. Said matter is pending in the United States Bankruptcy Court for the Northern District of Georgia at #04-40656-pwb. A Chapter 11 petition was filed on or about February 13, 2004. According to the docket entries, the case was converted to Chapter 7 in October of 2005.

3. According to court documents, a small portion of which are attached hereto as Exhibit "A," "Martin Surfacing, Inc." is a d/b/a of the petitioner and defendant in the present case, Southwest Recreational Industries, Inc.

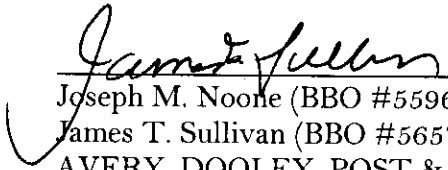
4. This defendant has been served with no documents indicating that plaintiffs herein have sought relief from the automatic stay provided for under §362 of Title 11. It is believed that any action by plaintiffs or the Court vis-à-vis Martin Surfacing is null and void absent relief from the said stay being secured. Moreover, plaintiff may be in contempt of the Bankruptcy Court in proceeding as requested against the corporate defendants herein.

5. To the extent that entry of default against Martin Surfacing, Inc. and/or Martin Surfacing, a Division of Southwest Recreation [sic] would negatively impact this defendant, jeopardize the availability of any insurance that may be available to this defendant, or otherwise prejudice this defendant, the above Requests are objected to.

WHEREFORE, Defendant, Reed J. Seaton, respectfully objects to the entry of default as requested by plaintiff.

REED J. SEATON

By his attorneys,

  
\_\_\_\_\_  
Joseph M. Noone (BBO #559644)  
James T. Sullivan (BBO #565700)  
AVERY, DOOLEY, POST & AVERY, LLP  
90 Concord Avenue  
Belmont, MA 02478  
(617) 489-5300

Dated: December 1, 2005

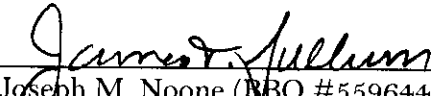
CERTIFICATE OF SERVICE

I, James T. Sullivan, hereby certify that I have this 1<sup>st</sup> day of December, 2005, forwarded the within ***Objection of Defendant, Reed J. Seaton, to Plaintiff's Requests for Entry of Defaults Against Defendants, Martin Surfacing, Inc. and Martin Surfacing, a Division of Southwest Recreation*** to all counsel of record by delivering a copy of same, first class mail, postage prepaid, to:

Robert J. Bonsignore, Esquire  
BONSIGNORE & BREWER  
23 Forest Street  
Medford, MA 02155

Lee Stephen MacPhee, Esquire  
Gareth W. Notis, Esquire  
MORRISON, MAHONEY, LLP  
250 Summer Street  
Boston, MA 02210

P. Douglas Barr, Esquire  
STOLL, KEENON & PARK, LLP  
300 West Vine Street, Suite 2100  
Lexington, KY 40507-1801

  
\_\_\_\_\_  
Joseph M. Noone (BBO #559644)  
James T. Sullivan (BBO #565700)  
AVERY, DOOLEY, POST & AVERY, LLP  
90 Concord Avenue  
Belmont, MA 02478  
(617) 489-5300

## **EXHIBIT “A”**

## RR(Official Form 1) (12/03)

<b>FORM B1</b>		<b>United States Bankruptcy Court</b> <b>Northern District of Georgia</b>		<b>Voluntary Petition</b>									
Name of Debtor (if individual, enter Last, First, Middle): <b>SOUTHWEST RECREATIONAL INDUSTRIES, INC.</b>			Name of Joint Debtor (Spouse) (Last, First, Middle):										
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):  <b>See attached schedule.</b>			All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):										
Soc. Sec./Tax I.D. No. (if more than one, state all): <b>74-2315598</b>			Soc. Sec./Tax I.D. No. (if more than one, state all):										
Street Address of Debtor (No. & Street, City, State & Zip Code): <b>701 Leander Drive</b> <b>Leander, Texas 78641</b>			Street Address of Joint Debtor (No. & Street, City, State, & Zip Code):										
County of Residence or of the Principal Place of Business: <b>Williamson</b>			County of Residence or of the Principal Place of Business:										
Mailing Address of Debtor (if different from street address): <b>P.O. Box 589, Leander, Texas 78646</b>			Mailing Address of Joint Debtor (if different from street address):										
Location of Principal Assets of Business Debtor (if different from street address above):			<b>CA, CO, GA, IL, KS, NJ, OH, TX and WA</b> <b>(On a consolidated basis with its debtor affiliates)</b>										
<b>Information Regarding the Debtor (Check the Applicable Boxes)</b>													
<b>Venue</b> (Check any applicable box) <input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.													
<b>Type of Debtor</b> (Check all boxes that apply) <input type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other _____ <input type="checkbox"/> Clearing Bank			<b>Chapter or Section of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box) <input type="checkbox"/> Chapter 7 <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding										
<b>Nature of Debts</b> (Check one box) <input type="checkbox"/> Consumer /Non-Business <input checked="" type="checkbox"/> Business			<b>Filing Fee</b> (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached.  Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.										
<b>Chapter 11 Small Business</b> (Check all boxes that apply) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(a) (Optional)			(This section is part of the Filing Fee section above)										
<b>Statistical/Administrative Information (Estimates only) *On a consolidated basis as at 12/31/03)</b> <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY								
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Estimated Number of Creditors</td> <td style="text-align: center;">1 - 15 <input type="checkbox"/></td> <td style="text-align: center;">16 - 49 <input type="checkbox"/></td> <td style="text-align: center;">50 - 99 <input type="checkbox"/></td> <td style="text-align: center;">100 - 199 <input type="checkbox"/></td> <td style="text-align: center;">200 - 999 <input type="checkbox"/></td> <td style="text-align: center;">1,000 - over <input checked="" type="checkbox"/></td> </tr> </table>						Estimated Number of Creditors	1 - 15 <input type="checkbox"/>	16 - 49 <input type="checkbox"/>	50 - 99 <input type="checkbox"/>	100 - 199 <input type="checkbox"/>	200 - 999 <input type="checkbox"/>	1,000 - over <input checked="" type="checkbox"/>	
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<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: right;">Estimated Assets</td> <td style="text-align: center;">\$0 to \$50,000 <input type="checkbox"/></td> <td style="text-align: center;">\$100,001 to \$500,000 <input type="checkbox"/></td> <td style="text-align: center;">\$500,001 to \$1 million <input type="checkbox"/></td> <td style="text-align: center;">\$1,000,001 to \$10 million <input type="checkbox"/></td> <td style="text-align: center;">\$10,000,001 to \$50 million <input type="checkbox"/></td> <td style="text-align: center;">\$50,000,001 to \$100 million <input type="checkbox"/></td> <td style="text-align: center;">More than \$100 million <input checked="" type="checkbox"/></td> </tr> </table>						Estimated Assets	\$0 to \$50,000 <input type="checkbox"/>	\$100,001 to \$500,000 <input type="checkbox"/>	\$500,001 to \$1 million <input type="checkbox"/>	\$1,000,001 to \$10 million <input type="checkbox"/>	\$10,000,001 to \$50 million <input type="checkbox"/>	\$50,000,001 to \$100 million <input type="checkbox"/>	More than \$100 million <input checked="" type="checkbox"/>
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FORM B1, Page 2

		Name of Debtor(s): <b>Southwest Recreational Industries, Inc.</b>	
Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)			
Location Where Filed: <b>N/A</b>	Case Number:	Date Filed:	
Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor:	Case Number:	Date Filed:	
District:	Relationship:	Judge:	

Signatures	
<p style="text-align: center; font-weight: bold;">Signature(s) of Debtor(s) (Individual/Joint)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct. [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X _____ Signature of Debtor</p> <p>X _____ Signature of Joint Debtor</p> <p>_____ Telephone Number (If not represented by attorney)</p> <p>Date: February _____</p>	<p style="text-align: center; font-weight: bold;">Exhibit A</p> <p>(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)</p> <p><input checked="" type="checkbox"/> Exhibit A is attached and made a part of this petition.</p> <hr/> <p style="text-align: center; font-weight: bold;">Exhibit B</p> <p>(To be completed if debtor is an individual whose debts are primarily consumer debts)</p> <p>I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.</p> <p>X _____ Signature of Attorney for Debtor(s)                      Date</p>

<p style="text-align: center; font-weight: bold;">Signature of Attorney</p> <p>X <u>/s/ Matthew W. Levin</u> Signature of Attorney for Debtor(s) <u>Matthew W. Levin (Georgia Bar No. 448270)</u> Printed Name of Attorney for Debtor(s) <u>Aiston &amp; Bird LLP</u> Firm Name <u>One Atlantic Center, 1201 West Peachtree St., Atlanta, GA 30309</u> Address <u>404-881-7000</u> Telephone Number <u>February 13, 2004</u> Date</p>	<p style="text-align: center; font-weight: bold;">Exhibit C</p> <p>Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?</p> <p><input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No</p> <hr/> <p style="text-align: center; font-weight: bold;">Signature of Non-Attorney Petition Preparer</p> <p>I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.</p> <p>_____ Printed Name of Bankruptcy Petition Preparer</p> <p>_____ Social Security Number</p> <p>_____ Address</p> <p>Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:</p> <p>If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.</p> <p>X _____ Signature of Bankruptcy Petition Preparer</p> <p>_____ Date</p> <p>A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.</p>
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<p style="text-align: center; font-weight: bold;">Signature of Debtor (Corporation/Partnership)</p> <p>I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.</p> <p>The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.</p> <p>X <u>/s/ Robert A. Hale</u> Signature of Authorized Individual <u>Robert Hale</u> Printed Name of Authorized Individual <u>Vice President</u> Title of Authorized Individual <u>February , 2004</u> Date</p>	
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### **ATTACHMENT TO VOLUNTARY PETITION**

#### **Pending Bankruptcy Cases Filed by Affiliates of the Debtor:**

On February 13, 2004, each of the affiliated entities listed below, including the debtor in this Chapter 11 case (collectively, the "Debtors"), filed a petition in this court for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330. Southwest Recreational Industries, Inc. is the parent corporation of the other Debtors, which are wholly-owned subsidiaries of Southwest Recreational Industries, Inc. Contemporaneously with the filing of their petitions, the Debtors filed a motion requesting that the Court consolidate their Chapter 11 cases for administrative purposes only.

#### **The Debtors are the following entities:**

Southwest Recreational Industries, Inc.  
E.J. Renner & Associates, Inc. d/b/a Malott Peterson Renner, Inc.  
AWS Construction, Inc.

**LIST OF TRADENAMES AND D/B/A'S**

S.W. Franks Construction Co.  
Malott Peterson Renner, Inc.  
Martin Surfacing, Inc.  
Nexturf  
Surfacing Specialists  
Ameritech Plastics, Inc.  
Five Star Finishing, Inc.  
Astroturf Manufacturing Co., Inc.  
Astroturf Surfaces Canada Ltd. n/k/a SRI Sports Canada, Inc.  
Astroturf Surfaces Pacific Pty Ltd n/k/a SRI Sports Pty Ltd.  
Astro Truf International Barbados (dissolved)  
Astroturf Europe n/k/a SRI Sports Europe  
Astroturf UK (no longer in operation)  
Southwest Caribe, Inc.  
AstroPlay  
Astroturf  
SRI Sports